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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

FEDERAL TRADE COMMISSION.

Plaintiff,

V.

MICROSOFT CORP.

and

ACTIVISION BLIZZARD, INC.

Defendants.

Case No. 3:23-cv-2880-JSC

**PLAINTIFF FEDERAL TRADE
COMMISSION'S ADMINISTRATIVE
MOTION TO CONSIDER WHETHER
ANOTHER PARTY'S MATERIAL
SHOULD BE SEALED**

Dept.: Courtroom 8
Judge: Honorable Jacqueline Scott Corley

PLAINTIFF FEDERAL TRADE COMMISSION'S ADMINISTRATIVE MOTION TO CONSIDER WHETHER
ANOTHER PARTY'S MATERIAL SHOULD BE SEALED
CASE No. 3:23-cv-2880-JSC

1 Pursuant to Civil Local Rules 7-11 and 79-5(f), Plaintiff, the Federal Trade Commission,
 2 respectfully submits this Administrative Motion to Consider Whether Another Party's Material
 3 Should be Sealed in connection with Plaintiff's Fourth Supplement to its Exhibit List.

4 Certain portions of Plaintiff's Fourth Supplement to its Exhibit List contain information
 5 that was obtained during the course of litigation discovery in *In the matter of Microsoft Corp.*
 6 *and Activision, Blizzard, Inc.*, before the United States of America Federal Trade Commission
 7 Office of Administrative Law Judges, Docket No. 9412, and that the producing party designated
 8 as Confidential pursuant to the Protective Order Governing Confidential Material entered on
 9 December 9, 2022 ("Administrative Protective Order"). As detailed below, Plaintiff reasonably
 10 expects the producing party may file, confidentiality declarations in support of sealing as
 11 required by Local Rule 79-5. Accordingly, Plaintiff seeks to file under seal:

PX#	Description	Docket Entry
PX1151	Document Description	held for L.R. 79-5(f) declaration
PX1190	Document Description	held for L.R. 79-5(f) declaration
PX1214	Document Description	held for L.R. 79-5(f) declaration
PX3218	Document Description	held for L.R. 79-5(f) declaration
PX3225	Document Description	held for L.R. 79-5(f) declaration
PX3233	Document Description	held for L.R. 79-5(f) declaration
PX3234	Document Description	held for L.R. 79-5(f) declaration
PX4031	Document Description	held for L.R. 79-5(f) declaration
PX4209	Document Description	held for L.R. 79-5(f) declaration
PX4380	Document Description	held for L.R. 79-5(f) declaration
PX4472	Document Description	held for L.R. 79-5(f) declaration

20 Materials and documents may be provisionally filed under seal pursuant to Civil Local
 21 Rule 79-5(f) when the document, or portions thereof, "has been designated as confidential by
 22 another party or non-party." L.R. 79-5(f).

23 Plaintiff has redacted the above-referenced yellow-highlighted portions of the FTC
 24 Exhibit List because Microsoft Corporation ("Microsoft") and Activision Blizzard Inc.
 25 ("Activision") have not yet had the opportunity to designate the information contained therein
 26 as confidential pursuant to L.R. 79-5(f), and to provide Microsoft and Activision an opportunity

1 to designate the information contained therein as confidential pursuant to L.R. 79-5(f). *See*
 2 Activision's (1) Fourth Amended Administrative Motion Seeking *In Camera* Treatment of
 3 Certain Exhibits Pursuant to Civil L.R. 7-11 and 79-5; and (2) Declaration of Page Robinson In
 4 Support Thereof (Dkt. No. 230); Microsoft's Administrative Motion Seeking *In Camera*
 5 Treatment of Certain Exhibits Pursuant to Civil L.R. 7-11 and 79-5 (Dkt. No. 232); Activision's
 6 Fifth Administrative Motion Seeking *In Camera* Treatment of Certain Exhibits Pursuant to
 7 Civil L.R. 7-11 and 79-5 (248) *see also* Omnibus Administrative Motion Regarding *In Camera*
 8 Treatment of Certain Exhibits Pursuant to Civil L.R. 7-11 and 79-5 (Dkt. No. 233).

9 Plaintiff has redacted the above-referenced pink-highlighted portions of the FTC Exhibit
 10 List because Nintendo of America Inc. ("Nintendo") has not yet had the opportunity to
 11 designate the information contained therein as confidential pursuant to L.R. 79-5(f). *See* Non-
 12 Party Nintendo of America Inc. Statement Pursuant to Local Rule 79-5 As To Why Its
 13 Confidential Information Should Be Filed Under Seal (Dkt. No. 168); Non-Party Nintendo of
 14 America Inc. Statement Pursuant to Local Rule 79-5 As To Why PX7059 and PX7065 Should
 15 Remain Under Seal (Dkt. No. 219); Non-Party Nintendo of America Inc. Statement Pursuant to
 16 Local Rule 79-5 As To Why Any Portions of Videorecorded Testimony from PX7065 Should
 17 be Kept Under Seal and *In Camera* (Dkt. No. 220); Non-Party Nintendo of America Inc.
 18 Statement Pursuant to Local Rule 79-5 As To Why PX3224 Should Remain Under Seal (Dkt.
 19 No. 221); *see also* Non-Party Nintendo of America Inc. Unopposed Motion for Order Changing
 20 Time (Dkt. No. 136).

21 Plaintiff takes no position on the merits of sealing Microsoft's, Activision's, or
 22 Nintendo's designated material.

23 In compliance with Civil Local Rule 79-5(d), the unredacted version of the FTC Exhibit
 24 List accompanies this Administrative Motion. In accordance with Local Rule 7-11, Plaintiff has
 25 also filed a Proposed Order herewith.

26
 27
 28 PLAINTIFF FEDERAL TRADE COMMISSION'S ADMINISTRATIVE MOTION TO CONSIDER WHETHER
 ANOTHER PARTY'S MATERIAL SHOULD BE SEALED
 CASE NO. 3:23-CV-2880-JSC

1 Dated: June 29, 2023

Respectfully submitted,

3 /s/ Jennifer Fleury

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